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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

BOB STUMP—Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

IN THE MATTER OF THE APPLICATION  
OF JOHNSON UTILITIES, L.L.C. FOR AN  
EXTENSION OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY FOR  
WATER AND SEWER SERVICES.

DOCKET NO. WS-02987A-12-0136

RESPONSE TO STAFF'S CLOSING  
BRIEF AND SUPPLEMENT TO  
CLOSING BRIEF

Utilities Division Staff ("Staff") filed its Closing Brief in this docket on May 22, 2013, and then filed its Supplement to Closing Brief ("Supplement") on June 17, 2013. Johnson Utilities, L.L.C. ("Johnson Utilities" or the "Company") hereby files its response to Staff's Closing Brief and Supplement. In its Closing Brief, Staff continues to recommend that Johnson Utilities receive an order preliminary ("OP") to the issuance of a certificate of convenience and necessity ("CC&N") for the Bella Vista Farms and Merrill Ranch Expansion One extension areas. Staff asserts that "[a]n OP disposes of a CC&N application in a way that does not grant a CC&N but sets out the conditions upon which a utility may demonstrate that a CC&N ultimately will be appropriate."<sup>1</sup> However, Johnson Utilities believes that it has clearly demonstrated that the granting of the requested CC&N in this docket is appropriate now. Thus, the Company urges the Arizona Corporation Commission ("Commission") to grant either a conditional CC&N or a CC&N with conditions, rather than issue an OP.

1. The Commission Has Previously Issued at Least 13 Conditional CC&Ns to Johnson Utilities.

In its Closing Brief, Staff states that where the Commission does not deny a CC&N application outright, it has three options for resolving the matter:

The Commission may grant the CC&N with operating conditions. Alternatively, the Commission may grant a conditional CC&N that has outstanding compliance

<sup>1</sup> Staff Closing Brief at p. 1, lines 18-10.

1 matters that must be resolved in order to perfect the grant of a CC&N. Finally,  
2 the Commission may issue an OP setting out how a future CC&N may be  
obtained if various compliance matters are resolved.<sup>2</sup>

3 Since 1997, Johnson Utilities has filed 20 applications to extend its CC&N as shown on  
4 Attachment A hereto. Of these applications, four were subsequently withdrawn by the Company  
5 and one was denied. Of the remaining 15 applications, 13 were approved as conditional  
6 CC&Ns, one was approved with conditions,<sup>3</sup> and one was approved with no conditions.<sup>4</sup> The  
7 Commission has not previously addressed an application to extend Johnson Utilities' water or  
8 wastewater CC&Ns by issuing an OP.

9 In the 13 conditional CC&Ns previously approved for Johnson Utilities, the Commission  
10 has included such conditions as:

- 11 • Requiring Johnson Utilities to file with Docket Control documentation that  
12 Notices of Violation issued by the Arizona Department of Environmental  
Quality ("ADEQ") have been closed.
- 13 • Requiring Johnson Utilities to file with Docket Control Approvals to Construct  
14 water facilities and General Permits to construct wastewater facilities issued by  
ADEQ for developments within the extension area.
- 15 • Requiring Johnson Utilities to file with Docket Control copies of Aquifer  
16 Protection Permit amendments for wastewater treatment plant expansions.
- 17 • Requiring Johnson Utilities to file with Docket Control updates and  
18 amendments to the Company's Designation of Assured Water Supply issued  
by the Arizona Department of Water Resources to include the extension areas.
- 19 • Requiring Johnson Utilities to file with Docket Control CAAG Section 208  
20 Plan Amendments for wastewater treatment plants and expansions.
- 21 • Requiring Johnson Utilities to file with Docket Control a copy of a fully  
executed main extension agreement for water facilities to serve the extension  
22 area.
- 23 • Requiring Johnson Utilities to file with Docket Control a copy of a Pinal  
County Franchise including the extension area.
- 24 • Requiring Johnson Utilities to file with Docket Control an arsenic plan  
25 showing that the Company is in full compliance with federal arsenic maximum  
contaminant levels.

27 <sup>2</sup> *Id.* at p. 1, lines 24-28.

28 <sup>3</sup> Decision 73236 (June 26, 2012).

<sup>4</sup> Decision 67585 (February 15, 2005).

Johnson Utilities has demonstrated a track record of complying with the conditions included in the various conditional CC&Ns previously issued by the Commission, and there has been no evidence presented in this docket to the contrary. In its Closing Brief, Staff explains how a conditional CC&N functions:

As distinguished from a CC&N that has conditions, in this instance the applicant receives a CC&N that is subject to explicit compliance requirements that must be fulfilled in order to perfect the CC&N. Typical examples of such conditions include obtaining Department of Water Resources Certificates of Assured Water Supply or Department of Environmental Quality Approvals to Construct. Staff makes this recommendation when an otherwise fit and proper applicant has demonstrated a sufficiently tangible present need to provide utility service to the territory but has not acquired all preliminary approvals necessary to provide such utility service.<sup>5</sup>

Johnson Utilities is clearly fit and proper to hold a CC&N to provide utility services as demonstrated by the fact that it is one of the largest private water and wastewater providers in Arizona and it has received at least 15 prior extensions of its CC&N.<sup>6</sup> Staff acknowledges that Johnson Utilities is a fit and proper, and there is no question on this point in the docket.

Johnson Utilities has also demonstrated a present need and necessity for utility services within the requested CC&N extension areas. The Company has provided letters requesting utility service from all landowners within the requested CC&N extension areas. In addition, the Company has filed copies of preliminary engineering reports with construction phasing schedules which show that development will be starting in the near future. Staff found the Company's application to be sufficient in a letter dated February 6, 2013 and filed in this docket.

Staff correctly acknowledges in its Closing Brief that "[t]he most common outcome is the grant of a CC&N or an extension of an existing CC&N."<sup>7</sup> Staff further acknowledges that the issuance of an order preliminary is "infrequent."<sup>8</sup> The problem with an OP as noted by Staff is that "the applicant does not receive a CC&N upon issuance of the order and consequently does not receive a right to serve customers, exclude competitors or even construct plant within

<sup>5</sup> Staff Closing Brief at p. 2, lines 10-17.

<sup>6</sup> See Attachment 1.

<sup>7</sup> Staff Closing Brief at p. 2, line 1.

<sup>8</sup> *Id.* at p. 3, line 4 and p. 4, line 1.

1 the requested territory.”<sup>9</sup> Staff concludes that the issuance of an OP is “generally recommended  
2 by Staff as an alternative to recommending denial.”

3 Staff cites several decisions in its Closing Brief where the Commission has issued an OP,  
4 but none are persuasive in this case. For example, Staff states that the Commission issued  
5 orders preliminary to Arizona Water Company (“AWC”) in Decisions 70379 and 68607. Staff  
6 stated that “[i]n both cases, the reason for the grant of an OP rather than a CC&N was due to the  
7 uncertainty about whether the utility would acquire a franchise from the municipality, an explicit  
8 statutory requirement in order to obtain a CC&N.”<sup>10</sup> Obviously, uncertainty regarding AWC’s  
9 ability to satisfy a specific statutory requirement (A.R.S. § 40-282(B)) and obtain a municipal  
10 franchise is a serious concern. However, there is no such concern in this case. According to  
11 Staff, the two “categories of conditions” that must be met by Johnson Utilities in this case “are  
12 compliance with [ADEQ] and submission of a complete description of the proposed project,  
13 including a preliminary engineering report.”<sup>11</sup> While these conditions must both be addressed,  
14 there is no question that Johnson Utilities will address them. In other words, the “categories of  
15 conditions” identified by Staff in this case are very different than the uncertainty regarding  
16 AWC’s ability to obtain a municipal franchise.

17 There is no basis in this case to deny Johnson Utilities an extension of its CC&N, and  
18 Staff has not presented evidence which would justify the Commission deviating from the  
19 practice it has consistently followed at least 13 times previously and issuing a conditional  
20 CC&N to the Company. The Merrill Ranch Expansion One extension area encompasses  
21 approximately one-half square mile and includes 13 planned phases. The development is part of  
22 the Anthem at Merrill Ranch master-planned development, portions of which are already  
23 included in the Company’s CC&N. In fact, Johnson Utilities has existing certificated territory  
24 adjacent to the Merrill Ranch Expansion One on the north and west, with additional certificated  
25 territory just south of the development. Similarly, Bella Vista Farms encompasses  
26 approximately two square miles and includes five planned phases with 13 parcels. Bella Vista

27 <sup>9</sup> *Id.* at p. 2, lines 25-27 (emphasis in original).

28 <sup>10</sup> *Id.* at p. 3, lines 16-19.

<sup>11</sup> *Id.* at p. 4, lines 18-20.

1 Farms is already in the Company's CC&N for wastewater, and Johnson Utilities has existing  
2 certificated territory on three sides of Bella Vista Farms. Thus, both of these extension areas  
3 should naturally be served by Johnson Utilities.

4 Staff's recommendation of an OP in this case would require the preparation of as many  
5 as 18 separate orders to be considered and approved by the Commission at 18 Open Meetings.  
6 With a requested extension area totaling approximately 2.5 square miles, this works out to one  
7 order per 89 acres. Obviously, this will create an undue burden on the Company, Staff, the  
8 Commission and the developers. Thus, Johnson Utilities urges the Commission to issue a  
9 conditional CC&N and require that the Company demonstrate compliance with each Staff  
10 recommendations.

11 **2. Compliance with ADEQ.**

12 In its Closing Brief, Staff spends two pages attempting to rebut testimony at the hearing  
13 by a Johnson Utilities witness and late-filed exhibits evidencing that ADEQ has closed the two  
14 notices of violation ("NOVs") issued in October and November 2012. Then, in Staff's  
15 Supplement filed June 17, 2013, Staff correctly acknowledges that "in fact, ADEQ has closed  
16 these NOVs and that the correspondence of April 12, 2013, docketed by Johnson Utilities as a  
17 late filed exhibit on April 19, 2013, was intended to so reflect."<sup>12</sup> However, Staff states in its  
18 Supplement that because it has learned that two additional NOVs were issued to Johnson  
19 Utilities on May 31, 2013, Staff is not changing its recommendation that the Company receive  
20 an OP.

21 A requirement that a utility file documentation of the closure of an NOV is an  
22 appropriate condition to a CC&N, but it should not be the basis for an OP. The NOVs that are  
23 referenced in Staff's Supplement relate to Johnson Utilities' San Tan wastewater treatment plant  
24 ("San Tan WTP"). Johnson Utilities provides Class A+ effluent from the San Tan WTP to the  
25 San Tan Heights Homeowners Association ("San Tan Heights HOA") and the Johnson Ranch  
26 Golf Course. After a power outage on Friday evening, May 10, 2013, the San Tan WTP  
27 experienced an upset when two of the three blower pumps failed to restart automatically once  
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<sup>12</sup> Staff's Supplement to Closing Brief at p. 1, lines 16-18 (emphasis added).

1 power was restored. This caused high turbidity in the effluent discharging from the plant to the  
2 San Tan Heights HOA pond. The high turbidity should have been identified and addressed  
3 immediately by the weekend employee tasked with checking the plant to verify that it is  
4 operating correctly. Unfortunately, the employee failed to do so.

5 On Monday, May 13, 2013, the weekday operator found the plant in an upset mode and  
6 immediately diverted the effluent flow from the San Tan Heights HOA pond to the Company's  
7 onsite recharge basin. The blower pumps were manually reset and the plant quickly returned to  
8 its normal operating condition producing A+ effluent. Johnson Utilities also immediately  
9 pumped the turbid effluent from the HOA's pond back into the San Tan WTP for reprocessing.

10 ADEQ inspected the San Tan WTP on May 15, 2013, and issued two NOV's on May 30,  
11 2013. Copies of NOV 140548 and NOV 140757 were filed with Docket Control by Johnson  
12 Utilities on June 5, 2013, in Docket Nos. WS-02987A-99-0583, WS-02987A-00-0618, W-  
13 02234A-00-0371, W-02859A-00-0774 and W-01395A-00-0784.<sup>13</sup>

14 As stated in the cover letters accompanying the NOV's, an NOV is "an informal  
15 compliance assurance tool used by ADEQ to put a responsible party ... on notice that the  
16 Department believes a violation of an environmental requirement has occurred." The cover  
17 letter further states that "an NOV provides the responsible party an opportunity to do any of the  
18 following before ADEQ takes formal enforcement action: (1) meet with ADEQ and discuss the  
19 facts surrounding the violation, (2) demonstrate to ADEQ that no violation has occurred, or (3)  
20 document that the violation has been corrected."

21 Pursuant to the requirements of the "documenting compliance" sections of the NOV's,  
22 Johnson Utilities has fully documented that the issues which led to the violations for high  
23 turbidity at the San Tan WTP have been corrected. Regarding NOV 140548, Johnson Utilities  
24 provided a letter to ADEQ dated June 20, 2013, which included, in part, the following  
25 description of the measures the Company has taken to correct the situation that occurred at the  
26 San Tan WTP:

27 <sup>13</sup> Johnson Utilities asks the Commission to take judicial notice of the Company's compliance filings in  
28 Docket Nos. WS-02987A-99-0583, WS-02987A-00-0618, W-02234A-00-0371, W-02859A-00-0774 and  
W-01395A-00-0784 in this docket.

1 As we reported previously, after a power outage on Friday evening, May 10,  
2 2013, the San Tan water reclamation plant experienced an upset when two  
3 variable frequency drives (VFDs) failed to restart when power was restored. This  
4 event led to bulking MLSS that resulted in a discharge of effluent that exceeded  
5 the turbidity limits. This event should have been corrected on Saturday by the  
6 weekend employee, but unfortunately the employee failed to do so. This  
7 employee has been dismissed by JU and is no longer working for JU. On  
8 Monday, May 13, 2013, the weekday operator found the plant in an upset mode  
9 and diverted the flow from the San Tan HOA pond to the onsite recharge facility.  
10 The blowers were manually reset, and the plant returned to its normal operating  
11 condition.

12 The VFDs that did not restart were programmed on Tuesday, May 14, 2013, to  
13 reset automatically after power is restored. JU tested the VFDs by turning the  
14 electric power off and on to ensure that the VFDs would restart automatically.  
15 When power was restored, all blowers started automatically.

16 Additionally, a supervisory control and data acquisition (SCADA) system is being  
17 installed to alert staff in the event of a power failure in the future. The influent  
18 SCADA system is complete which includes a power failure alarm. Installation of  
19 the entire SCADA system is expected to be completed by the middle of July.

20 A copy of Johnson Utilities' June 20, 2013, letter to ADEQ was filed by the Company  
21 with Docket Control in the above-listed dockets on June 21, 2013. With this letter, the  
22 Company satisfied the documenting compliance section of NOV 140548 and believes that the  
23 NOV will be closed.

24 Regarding NOV 140757, Johnson Utilities provided two letters to ADEQ dated June 4,  
25 2013, and June 20, 2013. In the June 4, 2013, letter, the Company reported, in part, as follows:

26 Attached are the 2nd quarter [Self Monitoring Report Form] pages for maximum  
27 turbidity and daily average turbidity. The data documents the plant's return to  
28 normal operation. Reclaimed water is currently being delivered to the Johnson  
Ranch Golf Course and recharge facility.

Copies of these letters were filed by Johnson Utilities in the above-listed dockets on June  
5, 2013, and June 21, 2013. With these letters, the Company has satisfied the documenting  
compliance section of NOV 140757 and believes that the NOV will be closed.

It is very important to note that the commissioners were aware of the NOVs discussed  
above when they voted at the June 27, 2013, Open Meeting to approve an application filed by  
Johnson Utilities under A.R.S. § 40-252 to include income tax expense in the Company's  
revenue requirement.<sup>14</sup> In that docket, the Commissioners obviously did not believe that it was

<sup>14</sup> Docket WS-02987A-08-0180.

1 necessary or appropriate to delay action on the Company's request until it had filed  
2 documentation demonstrating that ADEQ had closed the NOV's. Likewise, the existence of  
3 NOV's should not be used as a basis to support an OP over a conditional CC&N in this case. As  
4 illustrated by the conditions of the various CC&N extension decisions listed in Attachment A  
5 hereto, the Commission has previously addressed NOV's by issuing a conditional CC&N and  
6 requiring a subsequent filing demonstrating compliance.

7 **3. Preliminary Engineering.**

8 Staff asserts in its Closing Brief that Johnson Utilities has not provided the requisite  
9 project descriptions and engineering reports, stating as follows:

10 Such project descriptions have only been provided for Bella Vista Farms Phases  
11 One and Two. No such project descriptions exist regarding the remaining Bella  
12 Vista Phases 3, 4 and 5 and the Merrill Ranch expansion one, with beginning  
13 project dates ranging from June of 2015 to the third quarter of 2022. (Staff notes  
14 that at 4:53 p.m., on Tuesday May 21, 2013, the Company docketed its Notice of  
15 Late Filing Updated Preliminary Engineering Analysis, a copy of which was  
16 received by counsel undersigned on the morning of May 22, 2013. Staff has not  
17 had an opportunity to address this filing and will not address the same here).<sup>15</sup>

18 Staff's insistence on an OP because Johnson Utilities has allegedly not provided the  
19 requisite project descriptions and engineering reports is misplaced. Upon information and  
20 belief, the application filed by Johnson Utilities in this docket is the first CC&N extension  
21 application processed under the Commission's revised rules for water and sewer CC&N  
22 extensions. Throughout the sufficiency period and after, the Company attempted to provide all  
23 of the information that Staff requested regarding the application. In fact, Staff issued a  
24 sufficiency letter on February 6, 2013, stating that "[t]he application of Johnson Utilities LLC  
25 for an extension of its Certificate of Convenience and Necessity for water and wastewater  
26 services has met the sufficiency requirements as outlined in the Arizona Administrative Code."  
27 Further, upon information and belief, Staff has only recently reached internal consensus  
28 regarding the requirements of A.A.C. R14-2-402(B)(5) and R14-2-602(B)(5). Johnson Utilities  
has received numerous CC&N extensions in the past and the Company has always complied

<sup>15</sup> Staff Closing Brief at 6, lines 5-11.



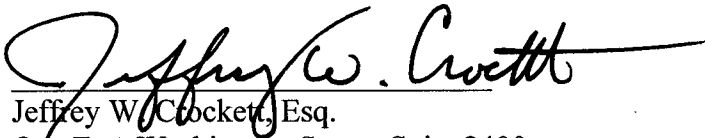
1 with any requirements regarding the submission of engineering plans and specifications. There  
2 is no basis for treating the Company differently in this case.

3 Johnson Utilities also notes that the preliminary engineering that was filed on May 21,  
4 2013, regarding the Merrill Ranch Expansion One extension area is substantially the same as the  
5 preliminary engineering that was submitted for Bella Vista Farms Phases 1 and 2 which Staff  
6 found to be acceptable. Again, the Company urges the Commission to issue a conditional  
7 CC&N and not an OP.

8 For all of the reasons set forth above, Johnson Utilities requests that the Commission  
9 issue a conditional CC&N and not an OP for the requested extension areas.

10 RESPECTFULLY submitted this 8<sup>th</sup> day of July, 2013.

11 BROWNSTEIN HYATT FARBER SCHRECK LLP

12   
13 Jeffrey W. Cockett, Esq.

14 One East Washington Street, Suite 2400  
15 Phoenix, Arizona 85004  
16 Attorneys for Johnson Utilities, L.L.C.

17 ORIGINAL and thirteen (13) copies of the  
18 foregoing filed this 8<sup>th</sup> day of July, 2013, with:

19 Docket Control  
20 ARIZONA CORPORATION COMMISSION  
21 1200 West Washington Street  
22 Phoenix, Arizona 85007

23 Copy of the foregoing hand-delivered  
24 this 8<sup>th</sup> day of July, 2013, to:

25 Yvette B. Kinsey, Administrative Law Judge  
26 Hearing Division  
27 ARIZONA CORPORATION COMMISSION  
28 1200 West Washington Street  
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Janice Alward, Chief Counsel  
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Steve Olea, Director  
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## Attachment 1–Johnson Utilities Applications to Extend CC&N

Docket Number	Decision	Type	Conditions
WS-02987A-09-0083	73236	Granted with Conditions	<p>IT IS THEREFORE ORDERED that the application of Johnson Utilities, LLC for an extension of its water and wastewater Certificates of Convenience and Necessity, to the areas described in Exhibit A, attached hereto and incorporated herein, is hereby <b><u>approved subject to the conditions</u></b> and requirements in the following Ordering Paragraphs.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities, LLC shall file, as a compliance item in this docket, within two years of the effective date of this Decision, a copy of the Arizona Department of Environmental Quality Approval to Construct water and wastewater facilities needed to serve the first parcel in the extension area approved herein.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities, LLC shall file, as a compliance item in this docket, within 30 days of said event, a notice to the Commission that Johnson Utilities, LLC's negotiations with the Arizona Department of Environmental Quality have concluded, the amount of any fines and/or penalties assessed by Arizona Department of Environmental Quality, Johnson's plan for paying such fines and/or penalties, and updating the Commission on the status of the Notices of Violations issued on March 4, 2008 and June 5, 2008.</p>
WS-02987A-07-0487	70849	Conditional CC&N	<p>IT IS THEREFORE ORDERED that Johnson Utility L.L.C.'s application for an extension of its wastewater Certificate of Convenience and Necessity to include the area described in Exhibit A, attached hereto, is hereby <b><u>conditionally granted</u></b> subject to the following Ordering Paragraphs.</p> <p>IT IS FURTHER ORDERED that Johnson Utility L.L.C., shall file by December 31, 2009, with Docket Control, as a compliance item in this docket, documentation from the Arizona Department of Environmental Quality demonstrating that Johnson Utility L.L.C.'s Pecan Water Reclamation Plant (ADEQ Inventory #105324) is in full compliance and that the Notice of Violations issued on March 4, 2008, and June 5, 2008, have been closed.</p> <p>IT IS FURTHER ORDERED that if Johnson Utility L.L.C. fails to meet the above timeframe, the Utilities</p>

			<p>Division Staff shall file a pleading requesting the Commission to order Johnson Utility L.L.C. to appear and show cause why the conditional extension of its wastewater Certificate of Convenience and Necessity granted herein, should not be considered null and void.</p> <p>IT IS FURTHER ORDERED that if Johnson Utility L.L.C. achieves full compliance with the Arizona Department of Environmental Quality for its Pecan Water Reclamation Plant (ADEQ Inventory #105324) on or before December 31, 2009, the extension of Johnson Utility L.L.C.'s wastewater Certificate of Convenience and Necessity shall become effective on the first day of the month following Johnson Utility L.L.C.'s filing with Docket Control proof of its compliance and the Utilities Division Staffs confirmation of such compliance with Docket Control.</p> <p>IT IS FURTHER ORDERED that Johnson Utility L.L.C. shall file with Docket Control, as a compliance item in this docket, a copy of the Arizona Department of Environmental Quality Certificate of Approval to Construct for the wastewater facilities needed to serve each of the developments in the requested extension areas, within three years of the effective date of this Decision.</p> <p>IT IS FURTHER ORDERED that <b><u>if Johnson Utility L.L.C. fails to comply with the above Ordering Paragraph, the Certificate of Convenience and Necessity conditionally granted herein, shall be deemed null and void, after due process.</u></b></p>
WS-02987A-06-0663	69414	Conditional CC&N	<p>IT IS THEREFORE ORDERED that the application of Johnson Utilities Company for an extension of its Certificate of Convenience and Necessity for both water and sewer to include the area described in Exhibit A, attached hereto and incorporated herein by reference, <b><u>is hereby approved subject to Staffs conditions</u></b>, as amended herein, and as outlined in the following Ordering Paragraphs.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this docket within two years of the effective date of this Decision, copies of the Approval to Construct for water facilities and the General Permit for wastewater facilities needed to serve the extension area.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this docket within two years of the effective date of this Decision, a copy of the Aquifer</p>

			<p>Protection Permit amendment indicating approval of the expansion of Johnson Utilities Company's Section 11 Wastewater Treatment Plant to 4.0 MGD.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall update or amend its Designation of Assured Water Supply to include the service areas in this CC&amp;N extension application and Johnson Utilities Company shall file with Docket Control, as a compliance item in this docket, within two years of the effective date of this Decision, a copy of the Amended Arizona Department of Water Resources Designation of Assured Water Supply.</p> <p>IT IS FURTHER ORDERED that <b><u>if Johnson Utilities Company fails to comply with the above conditions within the required time-frames the Certificate of Convenience and Necessity conditionally granted herein shall become null and void, after due process.</u></b></p>
WS-02987A-06-0667	70411	Conditional CC&N	<p>IT IS THEREFORE ORDERED that the application of Johnson Utilities Company for an extension of its Certificate of Convenience and Necessity to include the area described in Exhibit A, attached hereto and incorporated herein by reference, <b><u>is hereby approved subject to the following Ordering Paragraphs.</u></b></p> <p>IT IS FURTHER ORDERED that Johnson shall file with Docket Control, as a compliance item in this docket, within two years of the effective date of this Decision, a copy of the Aquifer Protection Permit amendment that indicates approval of the expansion of the Section 11 Wastewater Treatment Plant to 4.5 million gallons per day.</p> <p>IT IS FURTHER ORDERED that Johnson shall file with Docket Control, as a compliance item in this docket, within two years of the effective date of this Decision, copies of the Approval to Construct issued by the Arizona Department of Environmental Quality for the water and wastewater facilities needed for Phase 1 of each of the developments located within the requested extension areas.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities, L.L.C., is hereby granted an extension of time, until October 25, 2009, to file the Aquifer Protection Permits for the Copper Basin Regional Wastewater Treatment facility, as ordered in Commission Decision Nos. 68235 and 68237.</p> <p>IT IS FURTHER ORDERED that <b><u>if Johnson Utilities, L.L.C. fails to meet any of the above outlined timeframes, the Certificate of Convenience and Necessity conditionally granted herein shall be</u></b></p>

			<b><u>considered null and void after due process.</u></b>
WS-02987A-06-0077	69167	Conditional CC&N	<p>IT IS THEREFORE ORDERED that the application of Johnson Utilities, L.L.C., d/b/a Johnson Utilities for an extension of its Certificate of Convenience and Necessity to provide wastewater utility service in Pinal County as described in Exhibit A, attached hereto and incorporated herein by reference, <b><u>is approved subject to the conditions and requirements recommended by Staff and set forth in the following ordering paragraphs.</u></b></p> <p>IT IS FURTHER ORDERED that Johnson Utilities, L.L.C., d/b/a Johnson Utilities shall charge its existing rates and charges currently on file with the Commission in the extension area, until further Order of the Commission.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities, L.L.C., d/b/a Johnson Utilities shall file with Docket Control, as a compliance item in this docket, within two years of the effective date of this Order, copies of the Arizona Department of Environmental Quality Approval to Construct, for Phase 1, for facilities needed to serve the Ironwood Crossing development.</p> <p>IT IS FURTHER ORDERED that <b><u>if Johnson Utilities, L.L.C., d/b/a Johnson Utilities fails to comply with the above stated conditions within the required time-frames, the Certificate of Convenience and Necessity conditionally granted herein shall become null and void, after due process.</u></b></p>
WS-02987A-05-0695	68961	Conditional CC&N	<p>IT IS THEREFORE ORDERED that the application of Johnson Utilities Company for an extension of the service area under its Certificate of Convenience and Necessity to include the area described in Exhibit A attached hereto and incorporated herein by reference be, <b><u>and is hereby approved, subject to the conditions more fully described herein.</u></b></p> <p>* * *</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this docket, a copy of the ADEQ Approval to Construct for the water system backbone facilities within 24 months of the effective date of this Decision.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this docket, a copy of the ADEQ Approval to Construct for the wastewater system backbone facilities within 24 months of the effective</p>

			<p>date of this Decision.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this docket, a copy of the CAAG Section 208 Plan Amendment for the Section 11 wastewater treatment plant within 24 months of the effective date of this Decision.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this docket, a copy of the Aquifer Protection Permit and CAAG Section 208 Plan Amendment for the Copper Basin Regional Wastewater Treatment Facility, with 24 months of the effective date of this Decision.</p> <p>* * *</p> <p>IT IS FURTHER ORDERED that <b><u>in the event Johnson Utilities Company fails to comply with the above-stated conditions within the times specified, the CC&amp;N extension approved herein shall, after due process, be deemed null and void.</u></b></p>
WS-02987A-05-0088	68235	Conditional CC&N	<p>IT IS THEREFORE ORDERED that the application of Johnson Utilities Company for an extension of the service area under its Certificate of Convenience and Necessity to include the area described in Exhibit A attached hereto and incorporated herein by reference be, and <b><u>is hereby approved, subject to the conditions more fully described herein.</u></b></p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company is required to update or amend its Designation of Assured Water supply to include the service area in this CC&amp;N extension application. Johnson Utilities Company shall file with Docket Control under this same docket number the amended Designation of Assured Water Supply, stating that there is adequate water supply, where applicable or when required by statute within 365 days of the decision in this case.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company must file with Docket Control, as a compliance item in this docket, for Staff review, a copy of the fully executed main extension agreements for water facilities for Quail Run within 365 days of the decision in this case.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company must file with Docket Control, as a compliance item in this docket, the Unified (Aquifer Protection) Water Quality Permits issued by ADEQ for the Copper Basin Regional Wastewater Treatment</p>

			<p>Facility within 365 days of the decision in this case.</p> <p>* * *</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company is required to file a quarterly report with the Docket Control, as a compliance item in this docket, regarding the status of the pending La Osa and Sonoran Litigation.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company is required to file Affiliate Interest reports pursuant to A.A.C. R14-2-801 et al.</p> <p>IT IS FURTHER ORDERED that <u>in the event Johnson Utilities Company fails to comply with the above-stated conditions within the times specified, the CC&amp;N extension approved herein shall be deemed null and void without further Order of the Commission.</u></p>
WS-02987A-04-0889	68236	Conditional CC&N	<p>IT IS THEREFORE ORDERED that the application of Johnson Utilities Company for an Extension of the service area under its Certificate of Convenience and Necessity to include the area described in Exhibit A attached hereto and incorporated herein by reference be, <u>and is hereby approved, subject to the conditions more fully described herein.</u></p> <p>* * *</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this case, within 365 days of the effective date of this Decision a copy of its Pinal County franchise including the extension area.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this case, by August 1, 2006, a copy of the ADEQ 4 MGD Aquifer Protection Permit for the Pecan wastewater treatment plant.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this case, by August 1, 2006, a copy of the CAAG Section 208 Plan inclusive of the extension area.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this case, beginning November 1, 2005, quarterly reports on the status of the pending La Osa and Sonoran litigation.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall comply with affiliated interest reporting requirements and conditions, pursuant to the April 19,</p>



			<p>2005, late-filed exhibit described in detail above.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall procure a \$500,000 performance bond, with proof of such performance bond filed in Docket Control, as a compliance item in this case, prior to retail service being provided to any customers in the CC&amp;N extension area. If Johnson Utilities Company is named as a defendant in either the La Osa or Sonoran lawsuits, the required bond amount shall be increased to \$1 million. The performance bond shall remain in place until further Order of the Commission and maintenance of the required bond shall be evidenced by a quarterly filing (by January 15, April 15, July 15, and October 15) of a letter of bond confirmation.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file a rate application for both water and wastewater by no later than May 1, 2007, based on a 2006 test year.</p> <p>* * *</p> <p>IT IS FURTHER ORDERED that <u>in the event Johnson Utilities Company fails to comply with the above-stated conditions within the times specified, the CC&amp;N extension approved herein shall be deemed null and void without further Order of the Commission.</u></p>
WS-02987A-04-0869	68960	Conditional CC&N	<p>IT IS THEREFORE ORDERED that the application of Johnson Utilities Company for an extension of the service area under its Certificate of Convenience and Necessity to include the area described in Exhibit A attached hereto and incorporated herein by reference be, and <u>is hereby approved, subject to the conditions more fully described herein.</u></p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this docket, documentation showing that JUC's Designation of Assured Water Supply applies to the extension area, within one year from the effective date of this Decision.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket control, as a compliance item in this docket, a copy of the ADEQ Approval to Construct for the water system backbone facilities within 24 months of the effective date of this Decision.</p> <p>IT IS FURTHER ORDERED that <u>in the event Johnson Utilities Company fails to comply with the above-stated conditions within the times specified, the CC&amp;N extension approved herein shall, after</u></p>

			<b><u>due process, be deemed null and void.</u></b>
WS-02987A-04-0501	67585	Granted with No Conditions	There were no conditions attached to the grant of this CC&N extension.
WS-02987A-04-0288	68237	Conditional CC&N	<p>IT IS THEREFORE ORDERED that the application of Johnson Utilities Company for an extension of the service area under its Certificate of Convenience and Necessity to include the area described in Exhibit A attached hereto and incorporated herein by reference be, and <b><u>is hereby approved, subject to the conditions more fully described herein.</u></b></p> <p>* * *</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this docket, within 365 days of the effective date of this Decision a copy of its Pinal County franchise including the extension area.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this docket, a copy of the ADEQ Approval to Construct for the water system backbone facilities within 12 months of the effective date of this Decision.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this docket, by January 1, 2006, a list of all wells in service as an approved public water supply source, with the corresponding arsenic concentration, and an arsenic plan showing that the Company is in full compliance with the new federal arsenic maximum contaminant levels.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this docket, a copy of the Company's "Designation of Assured Supply" inclusive of the requested area, within 24 months of the effective date of this Decision.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this docket, a curtailment tariff for all of its water systems within 60 days of the effective date of this Decision.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this docket, a copy of the CAAG Section 208 Plan Amendment for Anthem at Merrill Ranch within 12 months of the effective date of this</p>

			<p>Decision.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this docket, a copy of the Unified (Aquifer Protection) Water Quality Permits by ADEQ for both the Merrill Ranch Wastewater Treatment Facility and the Copper Basin Regional Wastewater Treatment Facility, with 24 months of the effective date of this Decision.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall file with Docket Control, as a compliance item in this docket, beginning October 1, 2005, quarterly reports on the status of the pending La Osa and Sonoran litigation.</p> <p>IT IS FURTHER ORDERED that Johnson Utilities Company shall comply with affiliated interest reporting requirements and conditions, pursuant to Hearing Exhibit S-3, as described in detail above.</p> <p>IT IS FURTHER ORDERED that <b><u>in the event Johnson Utilities Company fails to comply with the above-stated conditions within the times specified, the CC&amp;N extension approved herein shall be deemed null and void without further Order of the Commission.</u></b></p>
WS-02987A-04-0177	67186	Not Applicable	Application withdrawn by Johnson Utilities.
WS-02987A-02-0447	65882	Not Applicable	Application withdrawn by Johnson Utilities.
WS-02987A-01-0295	64288	Not Applicable	Application denied.
WS-02987A-00-0843	64431	Not Applicable	Application withdrawn by Johnson Utilities.
WS-02987A-00-0618	63960	Conditional CC&N	<p>IT IS THEREFORE ORDERED that the applications of Johnson Utilities, L.L.C., dba Johnson Utilities Company, H2O, Inc., Diversified Water Utilities, Inc., and Queen Creek Water Company for amendment of their Certificates of Convenience and Necessity for the operation of the applicable water and/or waste water facilities in the areas more fully described in the parcels as set forth in Exhibits A and B attached hereto be, and are hereby, <b><u>conditionally approved subject to the respective utilities meeting the applicable conditions</u></b> as set forth in Findings of Fact Nos. 153, 154, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168,</p>

			<p>169, and 171 and Conclusions of Law Nos. 4, 5 and 6 above.</p> <p><b><u>IT IS FURTHER ORDERED that in the event Johnson Utilities, L.L.C. dba Johnson Utilities Company, H2O, Inc., Diversified Water Utilities, Inc. and Queen Creek Water Company do not timely meet the requirements according to Staffs recommendations as set forth in Findings of Fact Nos. 153, 154, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, and 171, or fail to cure any major or minor violations cited by ADEQ within 90 days from the date of notice or request an extension therefrom, then such conditional Certificate granted herein for the respective parcel shall be rendered null and void without further order of the Commission.</u></b></p>
WS-02987A-00-0399	63162	Not Applicable	Application withdrawn by Johnson Utilities.
WS-02987A-99-0583	63960	Conditional CC&N	See Docket WS-02987A-00-0618 above.
WS-02987A-98-0546	62087	Conditional CC&N	<p>IT IS THEREFORE ORDERED that the application as amended of Johnson Utilities, L.L.C. dba Johnson Utilities Company for an extension of its Certificate of Convenience and Necessity for the operation of water and sewage facilities in the area more fully described in Exhibit A be, and <b><u>is hereby granted; provided, that</u></b> within 365 days of the effective date of this Decision, Johnson Utilities, L.L.C. dba Johnson Utilities Company files a copy of the Pinal County franchise issued by the Pinal County Board of Supervisors for the area described in Exhibit A and evidence of compliance with ADEQ's Rules for the operations of its water and wastewater systems and evidence that a "Designation" of an Assured Water Supply has been issued by ADWR.</p> <p><b><u>IT IS FURTHER ORDERED that in the event Johnson Utilities, L.L.C. dba Johnson Utilities Company does not timely file a copy of the Pinal County franchise, evidence of compliance from ADEQ for the water and wastewater systems, and evidence that a "Designation" of an Assured Water Supply has been issued by ADWR, then the extension of its Certificate of Convenience and Necessity for the area described in Exhibit A shall be deemed to be denied without further order of the Arizona Corporation Commission.</u></b></p>

WS-02987A-97-0593	61069	Conditional CC&N	<p>IT IS THEREFORE ORDERED that the application of Johnson Utilities, L.L.C. dba Johnson Utilities Company for an extension of its Certificate of Convenience and Necessity to include the area described in Exhibit A attached hereto and incorporated herein by reference be, and hereby <b><u>is, granted, conditioned on JUC's filing with the Arizona Corporation commission</u></b>, within 365 days from the effective date of this Decision, the required Pinal County franchise that allows JUC to construct its facilities within the public rights-of-way.</p> <p>IT IS FURTHER ORDERED that <b><u>in the event Johnson Utilities, L.L.C. dba Johnson Utilities Company does not timely file a copy of the Pinal County franchise as required by the preceding ordering paragraph, its application for extension of its Certificate of Convenience and necessity shall be deemed denied, without further Order of the Arizona Corporation Commission.</u></b></p>
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